IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 9767 of 2005(K)

PETITIONER:

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1. T.M. ABDUL HAZEEZ, LECTURER IN VIOLIN,
   RLV COLLEGE OF MUSIC & FINE ARTS,
   TRIPUNITHURA, RESIDING AT III A 12/72
   NGO QUARTERS, KAKKANADU.

2. R. SWAMINATHAN, LECTURER IN VIOLIN,
   CHEMBAI MEMORIAL GOVERNMENT MUSIC COLLEGE,
   PALAKKAD-1, RESIDING AT LATHANGI,
   2/130, NEW KALPATHY, PALAKKAD-3.

BY ADV. SRI.N.DHARMADAN (SR.)
SRI.ARUN.B.VARGHESE
SRI.T.P.DEYANANTHAN
SMT.SREEDEVI KYLASANATH
DR.K.P.KYLASANATHA PILLAY

RESPONDENTS:

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1. THE STATE OF KERALA REPRESENTED BY
   THE PRINCIPAL SECRETARY TO GOVERNMENT,
   HIGHER EDUCATION DEPARTMENT, GOVERNMENT
   SECRETARIAT, THIRUVANANTHAPURAM-1.

2. THE DIRECTOR OF COLLEGIATE EDUCATION
   VIKAS BHAVAN, THIRUVANANTHAPURAM-33.

3. C.K. VENKITARAMAN, LECTURER IN VIOLIN
   CHEMBAI MEMORIAL GOVT.MUSIC COLLEGE,
   PALAKKAD.

4. R. HARIKRISHNAN, LECTURER IN VIOLIN,
   SST COLLEGE OF MUSIC, THIRUVANANTHAPURAM.

R1 & R2 BY SHRI P.A. SALIM, GOVERNMENT PLEADER
R4 DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
R3 SRI.K.P.DANDAPANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 3/04/2007, THE COURT ON 10/4/2007 DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE NOTIFICATION OF KPS DATED 29.7.97

EXT.P2-TRUE COPY OF AMENDMENT OF SPECIAL RULES IN GO DATED 30.4.90

EXT.P3-TRUE COPY OF THE AMENDMENT IN GO DATED 20.1.82

EXT.P4-TRUE COPY OF GO DATED 11.5.1988

EXT.P5 SERIES- TRUE COPIES OF THE PETITIONERS' WIDWAN DIPLOMA CERTIFICATE OF MADRAS GOVERNMENT,.

EXT.P6-TRUE COPY OF CERTIFICATE ISSUED BY THE AUDITION BOARD OF ALL INDIA RADIO DATED 26.9.89 TO THE FIRST PETITIONERS

EXT.P6(A)-TRUE TRUE COPY OF CERTIFICATE DATED 26.6.97 ISSUED TO 2ND PETITIONERS

EXT.P7-TRUE COPY OF ORDER DATED 18.11.2000 OF THE SECRETARY, COMMISSIONER OF GOVT. EXAMINATIONS.

EXT.P8-TRUE COPY OF SELECT LIST PUBLISHED IN THE GAZETTE DATED 11.6.01

EXT.P9-TRUE COPY OF THE LETTER DATED 22.11.2003

EXT.P10-TRUE COPY OF REPLY GIVEN TO R2 ON 13.12.2004 BY THE 2ND PETITOINER

EXT.P10(A)- TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO R2 DATED 10.12.2004

EXT.P11-TRUE COPY OF SENIORITY LIST OF VIOLIN DEPARTMENT OF MUSIC COLLEGES ISSUED BY R2

EXT.P12-TRUE COPY OF LETTER OF R2

EXT.P13-TRUE COPY OF GO DATED 1.4.2006

EXT.P14-TRUE COPY OF PROTEST DATED 15.5.2006 FILED BY THE PETITIONERS

EXT.P15-TRUE COPY OF THE GO DATED 25.11.1998

EXT.P16-TRUE COPY OF GO DATED 18.4.2002

// TRUE COPY //

P.S. TO JUDGE

T.R. Ramachandran Nair, J.

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W.P.(C).NO.9767 of 2005-K

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Dated this the 10th day of April, 2007

JUDGMENT

The Substantial issue raised in the writ petition is also the same that is covered in O.P.Nos.6273/1998 and 20334/1998 which are disposed of along with this by a separate judgment. The petitioners herein are also the same petitioners in O.P. No.20334/1998. Even though various reliefs have been sought, learned Senior Counsel submitted that relief No.2 sought for in the writ petition alone is surviving, which may be granted. The petitioners, as per the said relief, seek for issuance of a writ of mandamus or any other direction or order commanding the second respondent to include the names of petitioners in the field of choice of Assistant Professors in Violin, according to their seniority and merit.

2. It is evident from the facts that the second petitioner has been included as per Ext.P8 by the Departmental Promotion Committee in the select list for promotion to the post of Asst. Professor. As against the first petitioner, some disciplinary action was pending and a crime was registered against him at the relevant time. It is stated that it is because of that, he was not considered by the Departmental Promotion Committee. It is submitted

that in those proceedings, first petitioner has been cleared and he may be allowed to file a representation showing his claim before the Departmental Promotion Committee.

3. The question raised in this writ petition is also whether the petitioners are entitled for promotion based on the qualification of Vidwan issued by the Madras Government which according to them, was considered as equivalent qualification of Ganapraveena going by the relevant special rules. Since I have already directed the respondents to take a decision in the matter in the judgment in O.P.Nos6273/1998 and 20334/1998, the claim of the petitioners for promotion will depend upon the outcome of the decision to be taken by the Government pursuant to the directions issued in that case. If the petitioners file any representation within a period of one month from today, that also will be considered by the competent authority based on the decision that may be taken pursuant to the directions issued in the judgment in O.P. No.6273/1998 and 20334/1998.

With the above direction, the writ petition is disposed of. I have not expressed anything on the merits of the matter.

(T.R. Ramachandran Nair, Judge.)

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